

## Calendar No. 13

103D CONGRESS  
1ST SESSION

# S. 42

To control the spread of AIDS, and for other purposes.

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### IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. HELMS introduced the following bill; which was read the first time

MARCH 3, 1993

Read the second time and placed on the calendar

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## A BILL

To control the spread of AIDS, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "AIDS Control Act of  
5 1993".

6 **SEC. 2. RECORDKEEPING.**

7 Part B of title III of the Public Health Service Act  
8 is amended by inserting after section 318A (42 U.S.C.  
9 247c-1) the following new section:

1 **“SEC. 318B. RECORDKEEPING OF CASES OF ACQUIRED IM-**  
2 **MUNE DEFICIENCY SYNDROME, ACQUIRED**  
3 **IMMUNE DEFICIENCY RELATED COMPLEX,**  
4 **AND HUMAN IMMUNODEFICIENCY VIRUS IN-**  
5 **FECTIONS.**

6 “The Director of the Centers for Disease Control and  
7 Prevention shall keep records of cases of individuals who  
8 are infected with the human immunodeficiency virus.”.

9 **SEC. 3. TESTING OF BLOOD.**

10 Section 351(d) of the Public Health Service Act (42  
11 U.S.C. 262(d)) is amended by adding at the end thereof  
12 the following new paragraph:

13 “(3) Not later than 180 days after the date of enact-  
14 ment of the AIDS Control Act of 1993, the Secretary shall  
15 promulgate regulations to require that, as a condition of  
16 receiving a license under this section, any entity that col-  
17 lects or distributes blood or blood components or deriva-  
18 tives shall test all donors of such blood for the presence  
19 of the human immunodeficiency virus prior to accepting  
20 a contribution of such blood.”.

21 **SEC. 4. PERMITTING DIRECTED AND AUTOLOGOUS BLOOD**  
22 **DONATIONS.**

23 Section 351(d) of the Public Health Service Act (42  
24 U.S.C. 262(d)) (as amended by section 3) is further  
25 amended by adding at the end thereof the following new  
26 paragraphs:

1       “(4) Not later than 180 days after the date of enact-  
2       ment of the AIDS Control Act of 1993, the Secretary shall  
3       promulgate regulations to require that, as a condition of  
4       receiving a license under this section, any entity that col-  
5       lects or distributes blood or blood components or  
6       derivatives—

7               “(A) permit blood donations made by a donor  
8       to be used directly for blood transfusions for such  
9       donor or for an individual designated by the donor;

10              “(B) permit a donor of blood to direct that any  
11       blood donated by such donor be used in a blood  
12       transfusion for such donor or for an individual des-  
13       ignated by such donor if the blood type of such do-  
14       nated blood is compatible with the blood type of  
15       such donor or the blood type of the designated indi-  
16       vidual, as the case may be, and the use of such do-  
17       nated blood is not contraindicated, as determined by  
18       the physician of such donor or such designated indi-  
19       vidual, as the case may be; and

20              “(C) permit blood donated in accordance with  
21       subparagraphs (A) or (B) to be used for an individ-  
22       ual other than the donor or an individual designated  
23       by a donor, as the case may be, if—



1           “(i) the physician of such donor or such  
2           designated individual determines that there is a  
3           more immediate need for such blood; or

4           “(ii) the donor consents to the use of such  
5           blood for an individual other than the donor or  
6           such designated individual.

7           “(5) Regulations promulgated by the Secretary to  
8           carry out paragraph (4) shall provide that any entity to  
9           which such paragraph applies is only required to permit  
10          the donations of blood described in such paragraph during  
11          the normal business hours of such entity.”.

12   **SEC. 5. REQUIREMENTS FOR RECIPIENT OF SERVICES AU-**  
13                           **THORIZED UNDER TITLE X OF THE PUBLIC**  
14                           **HEALTH SERVICE ACT.**

15          Section 1006 of the Public Health Service Act (42  
16   U.S.C. 300a-4) is amended by adding at the end thereof  
17   the following new subsection:

18          “(e) A grant may be made or a contract entered into  
19   under this title only after the intended recipient provides  
20   assurances satisfactory to the Secretary that such recipi-  
21   ent of the grant or contract will, prior to providing to any  
22   individual any services with amounts appropriated under  
23   this title, inform the individual—

24               “(1) of the effectiveness of the particular con-  
25   traceptive method provided to the individual by the

1 recipient as a method to prevent infection with the  
2 human immunodeficiency virus and a comparison of  
3 such effectiveness with the effectiveness of sexual  
4 abstinence;

5 “(2) that many individuals who are infected  
6 with the human immunodeficiency virus will develop  
7 acquired immunodeficiency syndrome, which is a  
8 fatal disease; and

9 “(3) that the most effective way to avoid be-  
10 coming infected with the human immunodeficiency  
11 virus is to abstain from homosexual relations, from  
12 heterosexual relations outside of a monogamous  
13 marriage, and from the sharing of needles used to  
14 administer intravenous drugs.”.

15 **SEC. 6. CONDITIONS ON GRANTS FOR THE PREVENTION,**  
16 **TREATMENT, AND CONTROL OF ACQUIRED**  
17 **IMMUNE DEFICIENCY SYNDROME.**

18 Title XXV of the Public Health Service Act (42  
19 U.S.C. 300ee et seq.) is amended by adding at the end  
20 thereof the following new part:

21 **“PART C—PROHIBITION ON AWARDING OF GRANTS**

22 **“SEC. 2531. PROHIBITION ON AWARDING OF GRANTS.**

23 **“The Secretary may not make a grant under this title**  
24 **to any State or political subdivision of any State to sup-**  
25 **port a project for education, testing, or counseling con-**

cerning acquired immune deficiency syndrome unless the State has taken administrative or legislative action to require that—

“(1) any physician practicing in the State report to the appropriate State public health authorities the name and address of any individual residing in the State who is treated by such physician and known by such physician to be infected with the human immunodeficiency virus;

“(2) any physician or medical technician who analyzes the results of clinical tests performed in the State report to the appropriate State public health authorities the name and address of any individual residing in the State who is determined as a result of an analysis conducted by such physician or medical technician to be infected with the human immunodeficiency virus; and

“(3) reporting under the laws described in paragraphs (1) and (2) to be carried out in accordance with State laws regulating the confidentiality of records maintained by the State or individuals with sexually transmitted diseases.”.



1 **SEC. 7. SPOUSAL NOTIFICATION.**

2 Part C of title XXV of the Public Health Service Act  
3 (as added by section 6) is amended by adding at the end  
4 thereof the following new section:

5 **“SEC. 2532. SPOUSAL NOTIFICATION.**

6 “(a) **PROHIBITION ON USE OF FUNDS.**—The Sec-  
7 retary may not make a grant under this title to any State  
8 or political subdivision of any State, nor shall any other  
9 funds made available under this Act, be obligated or ex-  
10 pended in any State unless such State takes administra-  
11 tive or legislative action to require that, within 30 days  
12 of diagnosis, a good faith effort shall be made to notify  
13 a spouse of an AIDS-infected patient that such AIDS-in-  
14 fected patient is infected with the human  
15 immunodeficiency virus.

16 “(b) **EFFECTIVE DATE.**—Subsection (a) shall take  
17 effect with respect to a State on January 1 of the calendar  
18 year following the first regular session of the legislative  
19 body of such State that is convened following the date of  
20 enactment of this section.

21 “(c) **DEFINITIONS.**—As used in this section:

22 “(1) **AIDS-INFECTED PATIENT.**—The term  
23 ‘AIDS-infected patient’ means any person who has  
24 been diagnosed by a physician or surgeon practicing  
25 medicine in such State to be infected with the  
26 human immunodeficiency virus.

1           “(2) GOOD FAITH EFFORT—A ‘good faith’ ef-  
 2           fort includes, but is not limited to, a certified letter  
 3           sent to the last known address of the spouse.

4           “(3) STATE.—The term ‘State’ means a State,  
 5           the District of Columbia, or any territory of the  
 6           United States.

7           “(4) SPOUSE.—The term ‘spouse’ means a per-  
 8           son who is or at any time since December 31, 1976,  
 9           has been the marriage partner of a person diagnosed  
 10          as an AIDS-infected patient.”.

11 **SEC. 8. BATHHOUSES.**

12          Part C of title XXV of the Public Health Service Act  
 13 (as added by section 6 and amended by section 7) is fur-  
 14 ther amended by adding at the end thereof the following  
 15 new section:

16 **“SEC. 2533. BATHHOUSES.**

17          “(a) PROHIBITION.—None of the funds made avail-  
 18 able under this title shall be obligated or expended in any  
 19 State if such State does not close all bathhouses where  
 20 a pattern of continuous homosexual sexual activity or con-  
 21 tinuous illegal intravenous drug use occurs.

22          “(b) HOMOSEXUAL ACTIVITY.—The homosexual ac-  
 23 tivity described in subsection (a) means any sexual activity  
 24 between two or more males as described in section  
 25 2256(2)(A) of title 18, United States Code.



1       “(c) **ILLEGAL DRUGS.**—The illegal drug use de-  
 2 scribed in subsection (a) means and includes any con-  
 3 trolled substance as defined in section 102(6) of the Con-  
 4 trolled Substance Act (21 U.S.C. 802(6)).

5       “(d) **BATHHOUSE.**—The term ‘bathhouse’ means any  
 6 business that charges a fee for admission and for that fee  
 7 offers the use of one or more of the following—

8               “(1) a swimming pool;

9               “(2) a spa or whirlpool; or

10              “(3) a communal bath.

11       “(e) **STATE.**—The term ‘State’ means any State, the  
 12 District of Columbia, or territory of the United States.

13       “(f) **FAILURE TO ACT.**—If on January 1 of the cal-  
 14 endar year following the first regular session that is con-  
 15 vened following the date of enactment of this Act, such  
 16 State fails to take the action as described in subsection  
 17 (a), it shall refund to the Federal Government by that date  
 18 such sums as it received in accordance with this section.”.

19       **SEC. 9. PROHIBITION ON USE OF FUNDS FOR NEEDLES AND**  
 20               **SYRINGES.**

21       Part C of title XXV of the Public Health Service Act  
 22 (as added by section 6 and amended by sections 7 and  
 23 8) is further amended by adding at the end thereof the  
 24 following new section:

1   **“SEC. 2534. PROHIBITION ON USE OF FUNDS FOR NEEDLES**  
2                           **AND SYRINGES.**

3           “None of the funds made available under this title  
4 shall be used to provide individuals with hypodermic nee-  
5 dles or syringes so that such individuals may use illegal  
6 drugs, or to distribute bleach for the purpose of cleansing  
7 needles for such use.”.

8   **SEC. 10. PROHIBITION ON USE OF FUNDS FOR CONDOMS.**

9           Part C of title XXV of the Public Health Service Act  
10 (as added by section 6 and amended by sections 7, 8, and  
11 9), is further amended by adding at the end thereof the  
12 following new section:

13   **“SEC. 2535. PROHIBITION ON USE OF FUNDS FOR**  
14                           **CONDOMS.**

15           “None of the funds made available under this title  
16 shall be used in any manner to provide persons with  
17 condoms. Furthermore, none of the funds made available  
18 under this title shall be used to promote condoms as a  
19 method to prevent the spread of AIDS.”.

20   **SEC. 11. PROHIBITION ON PROMOTION OF HOMOSEXUAL**  
21                           **ACTIVITY.**

22           Part C of title XXV of the Public Health Service Act  
23 (as added by section 6 and amended by sections 7, 8, 9,  
24 and 10) is further amended by adding at the end thereof  
25 the following new section:

1   **“SEC. 2536. PROHIBITION ON PROMOTION OF HOMOSEXUAL**  
2                   **ACTIVITY.**

3           “(a) **IN GENERAL.**—None of the funds made avail-  
4   able under this title shall be used to provide AIDS edu-  
5   cation, information, or prevention materials and activities  
6   that promote or encourage, directly or indirectly, homo-  
7   sexual sexual activities.

8           “(b) **REQUIREMENT.**—Education information, and  
9   prevention activities and materials paid for with funds ap-  
10   propriated under this Act shall emphasize—

11           “(1) abstinence from sexual activity outside a  
12   sexually monogamous marriage (including abstinence  
13   from homosexual sexual activities); and

14           “(2) abstinence from the use of illegal intra-  
15   venous drugs.

16           “(c) **HOMOSEXUAL ACTIVITY.**—The homosexual ac-  
17   tivity referred to in subsection (b) includes any sexual ac-  
18   tivity between two or more males as described in section  
19   2256(2)(A) of title 18, United States Code.

20           “(d) **ILLEGAL SUBSTANCES.**—The illegal drugs re-  
21   ferred to in subsections (a) and (b) includes any controlled  
22   substance as defined in section 102(6) of the Controlled  
23   Substance Act (21 U.S.C. 802(6)).

24           “(e) **FAILURE TO COMPLY.**—If the Secretary of  
25   Health and Human Services finds that a recipient of funds  
26   under this Act has failed to comply with this section, the



1 Secretary shall notify the recipient, if the funds are paid  
 2 directly to the recipient, or notify the State if the recipient  
 3 receives the funds from the State, of such finding and  
 4 that—

5 “(1) no further funds shall be provided to the  
 6 recipient;

7 “(2) no further funds shall be provided to the  
 8 State with respect to noncompliance by the individ-  
 9 ual recipient;

10 “(3) further payment shall be limited to those  
 11 recipients not participating in such noncompliance;  
 12 and

13 “(4) the recipient shall repay to the United  
 14 States, amounts found not to have been expended in  
 15 accordance with this section.”.

16 **SEC. 12. HIV TEST AND NOTIFICATION AS A CONDITION OF**  
 17 **MARRIAGE LICENSES.**

18 Part C of title XXV of the Public Health Service Act  
 19 (as added by section 6 and amended by sections 7, 8, 9,  
 20 and 10) is further amended by adding at the end thereof  
 21 the following new section:

22 **“SEC. 2535. HIV TESTING AND NOTIFICATION AS A CONDI-**  
 23 **TION OF MARRIAGE LICENSES.**

24 “(a) IN GENERAL.— None of the funds made avail-  
 25 able under this title shall be available for use in any State,

1 the District of Columbia, or any territory of the United  
 2 States unless such State, District or territory requires, as  
 3 a condition for the granting of a marriage license, a test  
 4 to determine whether the individuals applying for such a  
 5 license are infected with the human immunodeficiency  
 6 virus and that both individuals seeking such license shall  
 7 be notified of each test result.

8 “(b) EFFECTIVE DATE.—Subsection (a) shall take  
 9 effect with respect to a State, District, or territory on Jan-  
 10 uary 1 of the calendar year following the first regular ses-  
 11 sion of the legislative body of the State, District, or terri-  
 12 tory that is convened following the date of enactment of  
 13 this Act.”.

14 **SEC. 13. PROTECTING THE NATION'S BLOOD AND TISSUE**  
 15 **SUPPLY.**

16 (a) IN GENERAL.—Part I of title 18, United States  
 17 Code, is amended by inserting after chapter 89 the follow-  
 18 ing new chapter:

19 **“CHAPTER 90—PUBLIC HEALTH PRESERVATION**

“Sec.

“1831. Contamination of blood and tissue supply.

20 **“§ 1831. Contamination of blood and tissue supply**

21 “(a) It shall be unlawful for any individual to know-  
 22 ingly donate, or to knowingly attempt to donate blood,  
 23 semen, or organs, if such individual—

1           “(1) knows, on the basis of clinical or labora-  
2       tory evidence, that such individual is infected with  
3       the human immunodeficiency virus;

4           “(2) is a male individual who has had sexual  
5       intercourse with another male individual at any time  
6       on or after January 1, 1977;

7           “(3) is an individual who, on or after January  
8       1, 1977, is or has been a user of any intravenous  
9       drug the sale, distribution, or use of which is prohib-  
10      ited under Federal or State law at the time the indi-  
11      vidual injected the drug;

12          “(4) is an individual who has emigrated to the  
13      United States from Haiti, the Central African Re-  
14      public, Zaire, Rwanda, Burundi, the Congo, Chad,  
15      or Uganda on or after January 1, 1977;

16          “(5) is an individual who has hemophillia and  
17      has received a clotting factor concentrate on or after  
18      January 1, 1977;

19          “(6) is an individual who has engaged in pros-  
20      titution on or after January 1, 1977;

21          “(7) is an individual who has had sexual inter-  
22      course with an individual described in paragraph  
23      (1), (2), (3), (4), (5), (6), (8), or (9);

24          “(8) is an individual who has used a needle for  
25      an intravenous drug injection that the individual



knows has previously been used for an intravenous drug injection by an individual described in paragraph (1), (2), (3), (4), (5), (6), (7), or (9);

“(9) knows such individual is at high risk of contracting acquired immune deficiency syndrome (as defined by the Director of the Centers for Disease Control); or

“(10) is an individual who has engaged in an activity that such individual knows places such individual at a high risk of contracting such syndrome (as defined by such Director).

“(b) Any person who violates the provisions of subsection (a) shall be subject to a fine of \$10,000 or imprisonment for not more than 10 years, or both.

“(c) For purposes of this section, the term ‘sexual intercourse’ includes the acts described in section 2255(2)(A) of this title.”.

(b) CHAPTER ANALYSIS.—The chapter analysis at the beginning of part I of title 18 is amended by inserting after the item for chapter 89 the following:

**“90. Public Health Preservation ..... 1831”.**

**SEC. 14. TESTING OF FEDERAL PRISONERS.**

(a) IN GENERAL.—Chapter 305 of part III of title 18, United States Code, is amended by adding at the end thereof the following new section:

1   **“§ 4087. AIDS testing**

2           “(a) The Director of the Bureau of Prisons shall test  
3 each person incarcerated in a Federal penal or correctional  
4 institution for infection with the human immunodeficiency  
5 virus—

6                   “(1) on the date such person enters a Federal  
7 penal or correctional institution;

8                   “(2) every 12 months after the date described  
9 in paragraph (1); and

10                  “(3) at such other times as the Director deter-  
11 mines are appropriate.

12           “(b) The Director of the Bureau of Prisons shall re-  
13 port to the Director of Centers for Disease Control the  
14 incidence of each individual who tests positively for infec-  
15 tion with the human immunodeficiency virus.

16           “(c) Not later than 180 days after the date of enact-  
17 ment of the AIDS Control Act of 1993, the Director of  
18 the Bureau of Prisons shall promulgate regulations requir-  
19 ing that each individual tested under this section who tests  
20 positively for infection with the human immunodeficiency  
21 virus—

22                   “(1) be placed in separate residential facilities  
23 in a penal or correctional institution, if possible; and

24                   “(2) be restricted from holding any employment  
25 in a penal or correctional institution which involves  
26 duties that may increase the transmission of the

human immunodeficiency virus, such as assignments in blood services, the barber shop, or medical and dental services in any capacity.”.

(b) TABLE OF SECTIONS.—The table of sections for chapter 305 of part III of title 18, United States Code, is amended by adding at the end thereof the following: “4087. AIDS testing.”.

**SEC. 15. DISQUALIFICATION OF PERSONS FOR INDUCTION OR RETENTION IN THE ARMED FORCES ON THE BASIS OF INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS.**

(a) IN GENERAL.—Chapter 49 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 983. Disqualification of persons for induction or retention on the basis of infection with the human immunodeficiency virus**

“(a) Except as provided in subsection (d)(2), no person may be inducted into or retained in the armed forces (other than in a retired status) if it is determined, on the basis of a test or tests administered to such person under subsection (b), that such person is infected with the human immunodeficiency virus.

“(b) Under regulations prescribed by the Secretary concerned—



1           “(1) each person examined for induction and  
2       re-enlistment into the armed forces shall be tested  
3       for infection with the human immunodeficiency virus  
4       before induction,

5           “(2) each member of the armed forces shall be  
6       tested     for     infection     with     the     human  
7       immunodeficiency virus at least once each year;

8           “(3) each time a member of the armed forces  
9       is admitted to any medical facility of the uniformed  
10      services or of the Veterans’ Administration in order  
11      to receive in-patient care in such facility, such mem-  
12      ber shall be tested for infection with the human  
13      immunodeficiency virus; and

14          “(4) each member of the armed forces shall be  
15      tested     for     infection     with     the     human  
16      immunodeficiency virus at such times (other than  
17      the times specified in paragraphs (2) and (3) of this  
18      subsection) as the Secretary concerned considers ap-  
19      propriate.”.

20      (b) TABLE OF SECTIONS.—The table of sections at  
21      the beginning of chapter 49 of such title is amended by  
22      adding at the end thereof the following:

“9830. Disqualification of persons for induction or retention on the basis of in-  
fection with the human immunodeficiency virus.”.

1 **SEC. 16. VETERANS' ADMINISTRATION.**

2 (a) TESTING.—Section 124(b) of Veterans' Benefits  
3 and Services Act of 1988 (38 U.S.C. 4133 note) is  
4 amended to read as follows:

5 “(b) TESTING.—(1) The Administrator shall provide  
6 for a program under which the Veterans' Administration  
7 routinely tests each patient to whom the Veterans' Admin-  
8 istration is furnishing health care or services, as described  
9 in paragraph (2), for the human immunodeficiency virus  
10 to determine whether such patient is infected with the  
11 virus.

12 “(2) Patients referred to in paragraph (1) are—

13 “(A) patients who are receiving treatment for  
14 intravenous drug abuse;

15 “(B) patients who are receiving treatment for a  
16 disease associated with the human immunodeficiency  
17 virus;

18 “(C) patients who are receiving treatment for a  
19 sexually transmitted disease;

20 “(D) patients who are otherwise at high risk for  
21 infection with such virus; and

22 “(E) patients seeking in-patient treatment who  
23 are 40 and under.

24 “(3) The Administration shall provide pre- and post-  
25 test counseling to each patient described in paragraph  
26 (2).”.

1 (b) DISCLOSURE TO SPOUSE OR SEXUAL PART-  
2 NERS.—Section 4132 of title 38, United States Code, is  
3 amended—

4 (1) by redesignating subsection (f) as sub-  
5 section (g); and

6 (2) by inserting after subsection (e) the follow-  
7 ing new subsection (f):

8 “(f)(1) Notwithstanding subsection (a), and subject  
9 to paragraph (2) of this subsection, a physician or a pro-  
10 fessional counselor shall disclose information or records in-  
11 dicating that a patient or subject is infected with the  
12 human immunodeficiency virus if the disclosure is made  
13 to—

14 “(A) the current spouse of the patient;

15 “(B) any other person who at any time since  
16 December 31, 1976 has been the marriage partner  
17 of the patient; or

18 “(C) to any individual whom the patient or sub-  
19 ject has, during the process of professional counsel-  
20 ing or of testing to determine whether the patient or  
21 subject is infected with such virus, identified as  
22 being a sexual partner of such patient or subject.

23 “(2) A disclosure under paragraph (1) may be made  
24 by a physician or counselor other than the physician or  
25 counselor referred to in paragraph (1)(A) if such physician



1 or counselor is unavailable to make the disclosure by rea-  
2 son of absence or termination of employment.”.

3 **SEC. 17. USE OF PREVENTIVE HEALTH SERVICES APPRO-**  
4 **RIATIONS.**

5 (a) **REGULATIONS.**—Not later than 180 days after  
6 the date of enactment of this Act, the Secretary of Health  
7 and Human Services shall promulgate regulations requir-  
8 ing the recipient of moneys appropriated under section  
9 317 of the Public Health Service Act (42 U.S.C. 247b)  
10 to—

11 (1) routinely test each person receiving treat-  
12 ment for tuberculosis to determine if such person is  
13 infected with the human immunodeficiency virus;  
14 and

15 (2) provide pre- and post-test counseling on  
16 acquired immunodeficiency syndrome to each such  
17 person.

18 (b) **CONFIDENTIALITY.**—In promulgating regulations  
19 under subsection (a), the Secretary shall ensure that con-  
20 fidentiality shall be provided to those tested under such  
21 regulations in accordance with section 552(a) of title 5  
22 of the United States Code.

1 **SEC. 18. REQUIREMENT OF TESTING BY BLOCK GRANT**  
2 **RECIPIENTS.**

3 (a) **REGULATIONS.**—Not later than 180 days after  
4 the date of enactment of this Act, the Secretary of Health  
5 and Human Services shall promulgate regulations requir-  
6 ing the recipient of grant moneys under subpart I of part  
7 B of title XIX of the Public Health Service Act (42 U.S.C.  
8 300x et seq.) to—

9 (1) routinely test each person receiving treat-  
10 ment for substance abuse through funds provided  
11 under such subpart for substance abuse to determine  
12 if such person is infected with the human  
13 immunodeficiency virus; and

14 (2) provide pre- and post-test counseling on  
15 acquired immunodeficiency syndrome to each such  
16 patient.

17 (b) **CONFIDENTIALITY.**—In promulgating regulations  
18 under subsection (a), the Secretary shall ensure that con-  
19 fidentiality shall be provided to those tested in accordance  
20 with section 552(a) of title 5 of the United States Code.

21 **SEC. 19. PROGRAMS FOR THE PREVENTION OF THE**  
22 **SPREAD OF AIDS.**

23 (a) **REGULATIONS.**—Not later than 180 days after  
24 the date of enactment of this Act, the Secretary of Health  
25 and Human Services shall promulgate regulations requir-  
26 ing the recipient of grant moneys appropriated under sec-

tion 318 of the Public Health Service Act (42 U.S.C. 247c) to—

(1) routinely test each person receiving treatment for a sexually transmitted disease from the recipient to determine if such person is infected with the human immunodeficiency virus; and

(2) provide pre- and post-test counseling on acquired immunodeficiency syndrome to each such person.

(b) CONFIDENTIALITY.—In promulgating regulations under subsection (a), the Secretary shall ensure that confidentiality shall be provided to those tested under such regulations in accordance with section 552(a) of title 5 of the United States Code.

## **SEC. 20. IMMIGRATION REFORM.**

Notwithstanding any other provision of law or any decision of the Secretary of Health and Human Services or any other Federal official, the President shall, pursuant to section 212(a)(6) of the Immigration and Nationality Act, add infection with the human immunodeficiency virus and syphilis to the list of dangerous contagious diseases contained in title 42 of the Code of Federal Regulations.

## **SEC. 21. HEALTH CARE WORKERS PROTECTION ACT.**

(a) EXPOSURE PRONE INVASIVE PROCEDURES.—Notwithstanding any other provision of law, a State shall,



1 not later than 1 year after the date of enactment of this  
2 Act, certify to the Secretary of Health and Human Serv-  
3 ices that such State has in effect regulations, or has en-  
4 acted legislation, to protect licensed health care profes-  
5 sionals from contracting the human immunodeficiency  
6 virus and the hepatitis B virus during the performance  
7 of exposure prone invasive procedures.

8 (b) TESTING.—The regulations or legislation referred  
9 to in subsection (a) shall permit health care professionals  
10 to require that, prior to the commencement of or during  
11 the conduct of an exposure prone invasive procedure, a  
12 patient may be tested for the etiologic agent for the  
13 human immunodeficiency virus. Such regulations or legis-  
14 lation shall not apply in emergency situations when the  
15 patient's life is in danger.

16 (c) CONFIDENTIALITY OF RESULTS AND ENFORCE-  
17 MENT.—

18 (1) RESULTS.—The result of tests conducted  
19 under subsection (b) shall be confidential and shall  
20 not be released to any other party without the prior  
21 written consent of the patient.

22 (2) ENFORCEMENT.—The regulations or legis-  
23 lation referred to in subsection (a) shall contain en-  
24 forcement provisions that subject an individual who  
25 violates the provisions of paragraph (1) to a \$10,000

1 fine or a prison term of not more than one year for  
2 each such violation.

3 (d) FAILURE TO PROVIDE CERTIFICATION.—Except  
4 as provided in subsection (e), if a State does not provide  
5 the certification required under subsection (a) within the  
6 1-year period described in such subsection, such State  
7 shall be ineligible to receive assistance under the Public  
8 Health Service Act (42 U.S.C. 301 et seq.) until such cer-  
9 tification is provided.

10 (e) EXCEPTION.—The Secretary of Health and  
11 Human Services shall extend the time period described in  
12 subsection (a) for a State, if—

13 (1) the State has determined not to promulgate  
14 regulations to adopt the guidelines referred to in  
15 subsection (a); and

16 (2) the State legislature of such State meets on  
17 a biennial basis and has not met within the 1-year  
18 period beginning on the date of enactment of this  
19 Act.

20 (f) DEFINITION.—As used in this section, the term  
21 “exposure prone invasive procedure” means such proce-  
22 dures as listed in guideline promulgated by the Centers  
23 for Disease Control and Prevention concerning rec-  
24 ommendations for preventing the transmission by health  
25 care professionals, of the human immunodeficiency virus

1 and the hepatitis B virus to patients during exposure  
2 prone invasive procedures.

3 **SEC. 22. DELIBERATE TRANSMISSION OF THE AIDS VIRUS.**

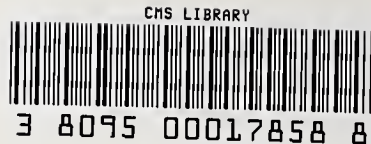
4 (a) **IN GENERAL.**—Whoever, being a registered phy-  
5 sician, dentist, nurse, or other health care provider, know-  
6 ing that he or she is infected with the human  
7 immunodeficiency virus, intentionally provides medical or  
8 dental treatment to another individual, without prior noti-  
9 fication to such individual of such infection, shall be fined  
10 not more than \$10,000, or imprisoned not less than 10  
11 years, or both.

12 (b) **APPLICABILITY.**—The provisions of this section  
13 shall not be applicable in the case of a medical emergency  
14 in which alternative medical treatment is not reasonably  
15 available.

16 (c) **DEFINITIONS.**—As used in this section the term  
17 “treatment” means the performance of any medical diag-  
18 nosis or procedure that involves an invasive physical con-  
19 tact between the patient being treated and the physician  
20 or health professional administering the procedure.







Calendar No. 13

103D CONGRESS  
1ST SESSION

**S. 42**

**A BILL**

To control the spread of AIDS, and for other purposes.

MARCH 3, 1993

Read the second time and placed on the calendar